



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Fish and Richardson PC
225 Franklin Street
Boston, MA 02110

COPY MAILED

APR 29 2005

OFFICE OF PETITIONS

In re Application of :
Ian Richard Aldred :
Application No. 10/039,280 :
Filed: January 2, 2002 :
Attorney Docket No. 13804- :
002001/HH/MC/P717 :
: DECISION ON PETITION
: UNDER 37 CFR 1.55(c)

This is a decision on the petition under 37 CFR 1.55(c), filed June 21, 2004, for acceptance of an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for benefit of the filing date of foreign Great Britain Application No. 0130324.7, filed December 19, 2001.

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

- (1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;
- (2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (ADS) (37 CFR 1.76(b)(6));
- (3) the surcharge as set forth in 37 CFR 1.17(t);
- (4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. (The Commissioner may require additional information where there is a question whether the delay was unintentional.); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

The instant pending nonprovisional application was filed after November 29, 2000, and did not include a reference to the foreign application, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. Since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

The pending nonprovisional application was filed on January 2, 2002, which is after November 29, 2000 and within 12 months of December 19, 2001 (the filing date of the foreign application to which benefit is now being claimed). However, petitioner has not provided an executed oath/declaration or an ADS, which identifies the foreign application for which priority is claimed by application number, country and filing date.

Since an executed oath/declaration or an ADS that identifies the foreign application for which priority is claimed has not been received, the petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority under 35 U.S.C. § 119(a)-(d) is **DISMISSED**.

The claim for priority cannot be accepted until a proper oath/declaration or ADS is submitted to the Office.

The application will remain in the Office of Petitions for TWO (2) MONTHS to await petitioners' reply to this decision. If a reply is not received within TWO (2) MONTHS of the mailing date of this decision, the priority claim will be considered waived, and the application will be referred to Technology center 2600 for continued prosecution.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is (703) 872-9306.

Any inquiries directly pertaining to this matter may be directed to Marianne Jenkins at (571) 272-3223.



Frances M. Hicks

Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy